

This section provides rules and information that apply to the space requirements, structure, layout, and maintenance of the child care facility, both inside and outside.

Studies have shown that the quality of the physical designed environment of early child care centers is related to children's cognitive, social, and emotional development (e.g., size, density, privacy, well-defined activity settings, modified open-plan space, a variety of technical design features and the quality of outdoor play spaces). CFOC 4th ed. Standard 5.1.2.1 p.p. 216.

Equipment, materials, furnishings, and play areas should be sturdy, safe, and in good repair and should meet the recommendations of the U.S. Consumer Product Safety Commission (CPSC) for control of the following safety hazards. CFOC 4th ed. Standard 5.3.1.1 p.p. 253-254.

**(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.**

**Rationale/Explanation**

Child behavior tends to be more constructive when sufficient space is organized to promote developmentally appropriate skills. Crowding has been shown to be associated with increased risk of developing upper respiratory infections. Also, having sufficient space will reduce the risk of injury from simultaneous activities. CFOC 4th ed. Standard 5.1.2.1 p.p. 215-216.

**Compliance Guidelines**

- Square footage is used as a factor in determining the maximum capacity of the facility.
- After the facility is measured at the Pre-License Inspection, generally rooms are not remeasured at subsequent inspections except when:
  - A room or area in the facility has been remodeled.
  - A provider requests a change to their capacity.
  - A room or area appears overcrowded with children or with items unrelated to child care.
- The provider may temporarily have children in an area with less than 35 square feet of space per child while in a group activity that requires less movement, such as eating, napping, listening to a story, watching a puppet show, working on an art project, or doing homework.

**Risk Level**

Moderate

**Corrective Action for 1st Instance**

Citation Warning

- (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:
- (a) by children;
  - (b) for the care of children; or
  - (c) to store materials for children.
- (3) The department may not include the following areas when measuring indoor space for children's use:
- (a) bathrooms;
  - (b) closets;
  - (c) hallways;
  - (d) lobbies; and
  - (e) entryways.
- (4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.

#### **Rationale/Explanation**

Some city ordinances limit the capacity of child care facilities. CCL will not issue a license with a greater capacity than allowed by the city where the facility is located. When a maximum capacity is stated on a city's business license, or on a fire or kitchen inspection report, it may result in a reduced capacity when the child care license is issued or renewed.

- (5) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the residential certificate.

#### **Compliance Guidelines**

- The state legislature has granted providers an allowance to care for additional, unrelated school-age children beyond their approved, licensed capacity.
  - Residential Certificate providers may care for up to two additional school-age children.
  - No change in capacity or variance is needed to obtain this allowance.
  - The additional, unrelated, two school-age children do not count in ratio or group size.
  - The additional, unrelated, two school-age children still require supervision and must be cared for in spaces that are free of hazards.
  - All rules and regulations other than ratio, group size, and capacity apply to the additional, school-age children.
  - School-age refers to a child age 5 years to 12 years old.
  - The children do not need to be enrolled in school in order to qualify to be one of the two additional, bonus children.
- "Children in care" refers to the children who are present at the facility, being transported, and at any offsite activity.

- A physical head count of the children who are present combined with the provider's enrollment and attendance policies, and the sign-in and sign-out system may help ensure compliance with this rule.
- The provider may be over capacity for short periods of time during special events, such as parties where all enrolled children are invited, as long as supervision and ratios are maintained.

The two school age children do not count in the ratio or group size



### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning

- (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.**

### Rationale/Explanation

Ingestion of lead paint can result in high levels of lead in the blood, which affects the central nervous system and can cause mental retardation. Paint and other surface coating materials should comply with lead content provisions of the Code of Federal Regulations, Title 16, Part 1303. Lead is a neurotoxin. Even at low levels of exposure, lead can cause reduction in a child's IQ and attention span, and result in reading and learning disabilities, hyperactivity, and behavioral difficulties. Lead poisoning has no "cure." These effects cannot be reversed once the damage is done, affecting a child's ability to learn, succeed in school, and function later in life. Other symptoms of low levels of lead in a child's body are subtle behavioral changes, irritability, low appetite, weight loss, sleep disturbances, and shortened attention span. CFOC 4th ed. Standard 5.2.9.13 p.p. 251.

Lead-based paint and lead-contaminated dust are the most hazardous sources of lead poisoning in children and may be found in:

- House paints and paint used on outdoor play equipment made before 1978
- Imported vinyl mini-blinds made before 1997
- Imported toys

### Compliance Guidelines

- Providers must regularly inspect inside and outside walls and play surfaces that are accessible to children for damaged (peeling, flaking, or chalking) paint.
- Any area with damaged paint should be tested for lead. If there are four areas with damaged paint, then there must be four tests for lead.
- If lead-based paint is found and the building or structure was built before 1978, the local health department or the Utah Department of Environmental Quality (DEQ) should be contacted for how to remove or repair the lead-based paint.
- According to DEQ regulations, if there is an area with 6 square feet or more of damaged paint indoors or an area with 20 square feet or more of damaged paint outdoors, then correction must be done by a certified individual.
- There must be documentation that paint was tested and it contains no lead, or that paint containing lead was repaired according to DEQ or local health department instructions.
- More information is available from the [United States Environmental Protection Agency](#).

### Risk Level

High

#### Corrective Action for 1st Instance

Citation and CMP Warning when:

- A building or play structure constructed before 1978 has untested failing paint in an area accessible to children.
- Any area has tested paint that contains lead and it has not been appropriately remediated.

### Risk Level

Moderate

#### Corrective Action for 1st Instance

Citation Warning when:

A building or play structure constructed before 1978 has untested failing paint in an area inaccessible to children.

### **(7) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.**

#### Rationale/Explanation

As much fresh outdoor air as possible should be provided in rooms occupied by children. Screened windows should be opened whenever weather and the outdoor air quality permits or when children are out of the room. Indoor air should be kept as free from unnecessary chemicals as possible, including those emitted from air fresheners and other fragrances, cleaning products containing chemicals, aerosol sprays, and some furnishings.

The health and well-being of both the staff and the children can be greatly affected by indoor air quality. The air people breathe inside a building is contaminated with microbes shared among occupants, chemicals emitted from common consumer products and furnishings, and migration of

polluted outdoor air into the facility. Air quality significantly impacts people's health. The health impacts from exposure to air pollution (indoor and outdoor) can include: decreased lung function, asthma, bronchitis, emphysema, learning and behavioral disabilities, and even some types of cancer. CFOC 4th ed. Standard 5.2.1.1 p.p. 224.

### **Compliance Guidelines**

Areas used by children must be free of signs of inadequate ventilation such as mold growing in corners, a damp or musty smell, or a room with a temperature that varies greatly from the temperature of other rooms in the building.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

- A room or area used by the children does not have either mechanical ventilation or a window to open.
- There are signs of inadequate ventilation in a room used by children.
- The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is above the facility's ground-floor level.

### **Risk Level**

Low

### **Corrective Action for 1st Instance**

Warning when:

The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is on the facility's ground floor or basement level.

## **(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.**

### **Rationale/Explanation**

These levels of illumination facilitate cleaning, reading, comfort, completion of projects, and safety. Too little light, too much glare and confusing shadows are commonly experienced lighting problems. Inadequate artificial lighting has been linked to eyestrain, headache, and non-specific symptoms of illness. Lighting levels should be reduced during nap times to promote resting or napping behavior in children. During napping and rest periods, some degree of illumination must be allowed to ensure that staff can continue to observe children. CFOC 4th ed. Standard 5.2.2.1 p.p. 230-231.

### **Compliance Guidelines**

It is a rule violation if an area being used by children is so dark that it is unsafe to go in or out.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

There is inadequate lighting in a diapering or food preparation area, or if it is completely dark in a sleeping room.

### **Risk Level**

Low

### **Corrective Action for 1st Instance**

Warning when:

There is inadequate lighting in any other area used by the children.

## **(9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.**

### **Rationale/Explanation**

A draft-free temperature of 68°F to 75°F should be maintained at thirty to fifty percent relative humidity during the winter months. A draft-free temperature of 74°F to 82°F should be maintained at thirty to fifty percent relative humidity during the summer months. CFOC 4th ed. Standard 5.2.1.2 p.p. 225.

According to the National Institutes of Health, there may be an association between sleeping room temperatures and increased risk of SIDS. It is recommended that sleeping rooms be kept at a temperature comfortable for a lightly-clothed adult, and infants should not be overly bundled or should not feel hot to the touch when sleeping. American Academy of Pediatrics. (2016 October).

### **Compliance Guidelines**

- A thermometer may be used to check the air temperature in each infant and toddler room or area.
- The air temperature may be measured at the height at which the infants and toddlers sleep.
- The air temperature may be measured when an area seems to be too hot or too cold.
- In rooms used only for preschool and school-age children, the air temperature may be measured at table height when a room seems to be too hot or cold.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

The temperature is out of range in a room used for infants or toddlers.

### **Risk Level**

Low

### **Corrective Action for 1st Instance**

Warning when:

The temperature is out of range in any room other than one used for infants/toddlers.

- (10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.**

**Rationale/Explanation**

The facility should provide at all times at least one working non-pay telephone or wireless communication device for general and emergency use. CFOC 4th ed. Standard 5.3.1.12 p.p. 259.

**Compliance Guidelines**

- A cell phone meets the requirements of this rule as long as there is a phone in the facility, each vehicle, and at offsite activities whenever children are present.
- A long range two-way communication device also meets the requirements of this rule.

**Risk Level**

Moderate

**Corrective Action for 1st Instance**

Citation Warning

- (11) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.**

**Rationale/Explanation**

Toilets and hand sinks should be easily accessible to children and facilitate adult supervision. CFOC 4th ed. Standard 5.4.1.6. p.p. 262.

**Compliance Guidelines**

During regular operation hours, the required toilet and sink must be in working condition.

- It is a violation of rule 90-9(21) if there is only one toilet at the facility and it is not in working condition. In this case, the repair must be made immediately (within one hour) in order to provide child care services.
- The following are not acceptable toilets or sinks:
  - Indoor and outdoor portable toilets, such as chemical toilets, composting toilets, and bucket toilets
  - A portable sink with no water in it

- (12) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.**

**Rationale/Explanation**

Children should be allowed the opportunity to practice modesty when independent toileting behavior is well-established in the majority of the group. CFOC 4th ed. Standard 5.4.1.2 p.p. 261.

**Compliance Guidelines**

A bathroom that provides privacy has a door or curtain that closes, and only one child at a time

uses the bathroom.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning

- (13) If there is a swimming pool on the premises that is not emptied after each use, the provider shall:**
- (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;**
  - (b) maintain the pool in a safe manner; and**
  - (c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.**

### **Rationale/Explanation**

Where applicable, swimming pools and built-in wading pool equipment and materials should meet the health effects and performance standards of the National Sanitation Foundation or equivalent standards as determined by the local regulatory health authority. Proper pool operation and maintenance minimizes injuries. CFOC 4th ed. Standard 6.3.3.3 p.p. 300-301.

### **Compliance Guidelines**

- All locks or latches on the fence or safety cover must be properly locked.
  - A pool fence must be locked with a key or combination lock.
  - For a pool cover, every latch must be engaged and all sides must be secured.
- When the pool is covered with a safety cover, commercially made product documentation must be available for review by CCL.
- If the law or rule from one agency is more strict than another, the provider must follow the most strict regulation.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning

- (14) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:**
- (a) keeping the hot tub locked with a properly working cover; or**
  - (b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.**

### **Rationale / Explanation**



Children should not be permitted in hot tubs, spas, or saunas in child care. Areas should be secured to prevent any access by children. CFOC 4th ed. Standard 6.3.5.1. p.p. 302.

### **Compliance Guidelines**

- This rule only applies to tubs with water in them. However, it should be noted that empty tubs with unsafe or unlocked covers can also be dangerous since children can get trapped in them.
- All locks or latches on the fence or safety cover must be properly locked.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning

- (15) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:**
- (a) ceilings, walls, and floor coverings;**
  - (b) lighting, bathroom, and other fixtures;**
  - (c) draperies, blinds, and other window coverings;**
  - (d) indoor and outdoor play equipment;**
  - (e) furniture, toys, and materials accessible to the children; and**
  - (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.**

### **Rationale/Explanation**

Messy play and activities that lead to soiling of floors and walls is developmentally appropriate in all age groups, but especially among very young children, the same group that is most susceptible to infectious disease. These factors lead to soiling and contamination of floors and walls. A smooth, nonporous surface prevents deterioration and mold and is easier to clean and sanitize; therefore, helps prevent the spread of infectious diseases. To avoid transmission of disease within the group, and to maintain an environment that supports learning cleanliness as a value, all surfaces should be kept clean. CFOC 4th ed. Standard 5.3.1.6 p.p. 256-257.

Proper maintenance is a key factor when trying to ensure a safe play environment for children. Each playground is unique and requires a routine maintenance check program developed specifically for that setting. CFOC 4th ed. Standard 5.7.0.2 p.p. 277.

All walking surfaces, such as walkways, ramps, and decks, should have a non-slip finish and be free of loose material (e.g., gravel, sand), water, and ice. Sand may be used on walkways during ice and snow conditions. All walking surfaces and other play surfaces should be free of holes and abrupt irregularities in the surface. Slippery and uneven walking surfaces can lead to injury even during activities of children and adults that do not involve play. CFOC 4th ed. Standard 5.1.6.4 p.p. 223.

### **Compliance Guidelines**

- All indoor and outdoor building areas and structures must be in good repair. This includes all indoor and outdoor play equipment and inside and outside entrances, exits, steps, and walkways used by children.
- The provider must ensure that no play equipment or equipment component could fail or otherwise cause injury from inadequate maintenance such as:
  - Missing, bent, broken, or worn out components
  - Loose hardware or missing nuts or bolts
  - Excessive wear on any part of the equipment
  - Rusted or corroded metal
  - Wood that is rough or splintery
- If equipment is in a state of disrepair and is no longer sturdy or safe, it should be made inaccessible to children until it can be fixed or discarded.
- When hooks, such as C hooks, are open to the point that equipment could come out of the gap, the equipment will be considered not to be maintained in good repair.
- During and immediately after a snowstorm, the provider will be allowed a reasonable amount of time to remove snow from outdoor exit areas, stairs, and walkways to prevent a buildup of snow and ice.
  - In case of emergencies, all walkways, exits, and stairways must be free of ice and snow even if the children will not be going outside.
  - Walkways must be cleared to a width of at least 3 feet and for a distance of at least 6 feet from the building.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

- Children were exposed to asbestos.
- A child is unable to use a toilet or handwashing sink when necessary due to equipment failure or breakdown.
- The only toilet in the facility was broken while children were in care and the toilet was not repaired immediately (within one hour). Refer to 50-9(11).

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

- The presence of asbestos was not immediately corrected, but children were not exposed.
- Lack of maintenance could cause equipment failure.
- There is a buildup of ice in entrances, exits, steps, and walkways used by children.
- There is a missing step or unstable stairs that must be used to enter the facility or access the outdoor area.

### **Risk Level**

Low

### **Corrective Action for 1st Instance**

Warning for other hazards that require maintenance including:

- Exposed fiberglass insulation
- Heat vents that are missing covers
- Cracked or damaged flooring that could cause tripping
- Leaking plumbing (with the exception of a leaking faucet)
- An exposed fluorescent light tube with no covering on the fixture
- Draperies, blinds, or other window coverings that require maintenance including torn draperies or broken blinds that a child could become entangled in
- Wooden equipment that is rough or has splinters
- Cracks in equipment that could pinch a child's skin

**(16) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.**

### **Rationale/Explanation**

Children falling from elevated play areas may suffer fatal head injuries. CFOC 4th ed. Standard 6.1.0.4 p.p. 285.

### **Compliance Guidelines**

- When there is a lip on the edge of the stairwell, the depth is measured from the top of the lip down to the bottom of the stairs.
- Barriers need to be at least three feet (36 inches) high measured from the surface from which a person could fall.
- Barriers on accessible raised decks or balconies that are five feet or higher cannot have gaps that are greater than 5 inches by 5 inches. Licensors will measure gaps with a gap-measure tool.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

A deck or balcony that is five feet or higher or an open basement stairwell that is five feet or deeper has no protective barrier.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

- A required protective barrier has a gap that is five by five inches or greater in diameter.
- A required protective barrier is under three feet high but is at least 24 inches.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

No barrier, or barrier is under 24 inches

- (17) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when the following conditions are met:**
- (a) there is a signed rental or lease agreement for the rented area;**
  - (b) there is a separate mailing address for the rented area;**
  - (c) there is a separate entrance for the child care program;**
  - (d) there are no connecting interior doorways that can be used by unauthorized individuals; and**
  - (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.**

### **Rationale/Explanation**

It is essential that any area on the provider's premises must be a safe and healthy environment when accessible to children. This includes rooms, offices, and other areas that are occupied by others, but can be accessed by children in care.

### **Compliance Guidelines**

- Addresses on the mailboxes or on mail that is addressed to each person will confirm that the provider and the renter have separate addresses.
- If the outdoor area can be accessed or shared by residents, no children may be in the outdoor area without the provider or a caregiver.
- When all of the requirements of this rule are met:
  - CCL is not required to inspect the parts of the house that are subdivided and/or rented out, and
  - The occupants in the subdivided or rented part of the facility are not required to have background checks.
- If any of the above requirements are not met, CCL will:
  - Inspect the entire facility including areas that may be subdivided, rented out, or shared.
  - Verify in the CCL App that all covered individuals in the facility have passed a background check.

### **Risk Level & Corrective Action for 1st Instance**

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (18) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(19) through R430-50-9(24).**

**(19) The provider shall ensure that the outdoor area is safely accessible to children.**

**Rationale/Explanation**

The facility or home should be equipped with an outdoor play area that directly adjoins the indoor facilities or that can be reached by a route that is free of hazards. CFOC 4th ed. Standard 6.1.0.1 p.p. 282.

**Compliance Guidelines**

- In order to be licensed, there must be an outdoor area on the provider's premises that can be safely reached and used by the children. Facilities that do not have outdoor areas on site cannot ensure that children in their care are playing on equipment or in a space that is safe. Because open air is vital for children, indoor space cannot replace outdoor space.
- Any outdoor area that is used by children, including front yards, must adequately protect children from vehicular traffic.
- The route from the house to the outdoor area must be safe. For example, an outdoor area is not safely accessible if children must walk across an unsafe deck (such as one with broken boards or holes in it) or cross a driveway where cars or other motor vehicles come and go.
- The following examples of outdoor areas that are safely accessible include:
  - An outdoor area that is directly adjacent to the house, so that children exit the house straight into the play area.
  - A large, open-air deck that children access directly from the house as long as the deck has the required space per child and meets other licensing requirements.
  - An outdoor area on the premises that is reached by way of a fenced walkway.
  - When the building and entire outdoor area are surrounded by fencing, as long as the area inside the fence does not have motor vehicles or other hazards.
  - A common area in a multi-home complex as long as a caregiver is always with the children, the area can be safely reached, and portable fencing is set up around the area each time the children are outside.

**Risk Level**

Moderate

**Corrective Action for 1st Instance**

Citation Warning

**(20) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.**

**Rationale/Explanation**

Play areas must be sufficient to allow freedom of movement without collisions among active children. Providing more square feet per child may correspond to a decrease in the number of injuries associated with gross motor play equipment. In addition, meeting proposed Americans with Disabilities Act (ADA) outdoor play area requirements for accessible routes, and developing natural, outdoor play yards with variety and shade can only be achieved if sufficient outdoor play space is provided. CFOC 4th ed. Standard 6.1.0.1 p.p. 283.

### Compliance Guidelines

- The outdoor space that will be used by the children ages 0-12 years (including the provider's and employees' own children who will attend the program):
  - Must meet the square footage requirements of this rule.
  - Is a factor in determining the maximum capacity of the facility.
- After the outdoor area is measured at the Pre-License Inspection, generally the space is not remeasured on subsequent inspections except when:
  - The facility's outdoor area has been renovated or changed.
  - A provider requests a change to their capacity.
  - The outdoor play area appears overcrowded during an inspection.
- A facility may have more than one outdoor area, as long as each area is safely accessible, fenced as required, meets the square footage requirements for the number of children using the area, and is in compliance with other licensing rules.

### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning

**(21) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:**

- (a) has a speed of 25 miles per hour or higher; or**
- (b) has more than two lanes of traffic.**

### Rationale/Explanation

This standard helps to ensure proper supervision and protection, prevention of injuries, and control of the area. An effective fence is one that prevents a child from getting over, under, or through it and keeps children from leaving the fenced outdoor play area, except when supervising adults are present. Although fences are not childproof, they provide a layer of protection for children who stray from supervision. CFOC 4th ed. Standard 6.1.0.8 p.p. 286-287.

### Compliance Guidelines

- The entire perimeter of the fence must be at least four feet (48 inches) high.
- The fence must be measured on each side at its lowest point, from the side the children play on, and includes measuring a gate.
- If a fence or wall was previously approved by CCL, then the barrier's height is considered in compliance as long as:
  - The barrier has not been replaced, repaired, or altered; and
  - All areas of the barrier measure within five inches of the required four foot height. This five inch allowance only applies to a previously-approved barrier that has not changed since the approval; it does not apply to barriers formed by bushes or shrubs, etc. If the

fence or wall was replaced, repaired, adjusted, or it has changed since the last CCL inspection, it must meet the four foot height requirement.

- It is not a rule violation if a fence is lower than 48 inches in height due to temporary weather conditions, such as snow on the ground at the base of the fence.
- Bushes will be considered a natural barrier when there are no gaps five by five inches or greater.
- When a ramp (leading to the outdoor area) is separated from the area with a four foot high gate that is closed, the height of a fence on the ramp does not need to be assessed. If there is no gate, the gate is open, or is less than four feet high, then the fence on the perimeter of the ramp (that encloses the ramp and outdoor area) must be at least four feet high. The interior fencing on the ramp does not need to be assessed.
- Interior fences within the four foot perimeter fence do not need to be 48 inches high, unless otherwise required in rule.
- Any temporary fencing that is used to comply with this rule must:
  - Always be set up when children are in the outdoor area.
  - Meet the fencing height requirements as described above.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

There is no fence or barrier enclosing the outdoor area, or an area of the fence or barrier is less than 36 inches high.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

An area of the fence or barrier is less than 48 inches high.

- (22) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:**
- (a) barbed wire that is within 30 feet of the children's play area;**
  - (b) livestock on or within 50 yards of the property line;**
  - (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;**
  - (d) a drop-off of more than five feet on or within 50 yards of the property line; and**
  - (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.**

### **Rationale / Explanation**

The outdoor play area should be enclosed with a fence or natural barriers. CFOC 4th ed. Standard 6.1.0.8. p.p. 286.

### **Compliance Guidelines**

- A drop-off of 5 feet or more is assessed by measuring from the top of the drop-off straight down to where an object or person would fall.
- Dangerous machinery includes active railroads.
- Any swimming pool, pond, ditch, lake, river, stream, creek, or animal trough watering with water that pools 2 inches or deeper will be considered a hazard.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

There is no fence or barrier separating the outdoor area from a hazard as required, or an area of the fence or barrier is less than 36 inches high.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

An area of the fence or barrier is less than 47 inches high.

## **(23) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.**

### **Rationale/Explanation**

Fences and barriers should not prevent the observation of children by caregivers/teachers. If a fence is used, it should conform to applicable local building codes in height and construction. CFOC 4th ed. Standard 6.1.0.8 p.p. 286.

### **Compliance Guidelines**

- The entire perimeter of all required fences and barriers must be checked for gaps, including fences enclosing the outdoor area and any interior fences required to separate children from hazards even if previously approved.
- The size of any gap in or under the fence should be measured without pushing on the fence. Licensors will use a gap-measure tool.
- Depending on the purpose of the fence, it is a violation of rule 90-9(15) or 90-9(16) for not having a fence if any gap is 3 feet or greater in size.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

Any required fence or barrier has a five by five inch gap or greater that is lower than 36 inches.

### **Risk Level**

Moderate



### **Corrective Action for 1st Instance**

Citation Warning when:

Any required fence or barrier has a five by five inch gap or greater that is 36 inches or higher.

## **(24) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.**

### **Rationale/Explanation**

The shade will provide comfort and prevent sunburn or burning because the structures or surfacing are hot. Access to sun and shade is beneficial to children while they play outdoors. Light exposure of the skin to sunlight promotes the production of vitamin D that growing children require for bone development and immune system health. Additionally, research shows sun may play an important role in alleviating depression. Exposure to the sun is needed, but children must be protected from excessive exposure. Individuals who suffer severe childhood sunburns are at increased risk for skin cancer. Practicing sun-safe behavior during childhood is the first step in reducing the chances of getting skin cancer later in life. CFOC 4th ed. Standard 6.1.0.7 p.p. 286.

Children have a greater surface area to body mass ratio than adults. Therefore, children do not adapt to extremes of temperature as effectively as adults when exposed to a high climatic heat stress or to cold. Children produce more metabolic heat per mass unit than adults when walking or running. They also have a lower sweating capacity and cannot dissipate body heat by evaporation as effectively, CFOC 4th ed. Standard 3.1.3.2 p.p. 99.

### **Compliance Guidelines**

- There must be a provision for shade whenever the children are in the outdoor area, and it must be provided year-round.
- Shade can come from a tree, awning, patio roof, or other structure such as the side of the building. A canopy or umbrella may be used as long as it can be set up and stand on its own.
- There is no rule about the time of day that children play outside as long as shade is available to the children.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning when:

Shade is not provided when children are in the outdoor area and the temperature is 65 degrees or above.

### **Risk Level**

Low

### **Corrective Action for 1st Instance**

Warning when:

Shade is not provided when children are in the outdoor area and the temperature is below 65 degrees.